

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TRAVELERS INDEMNITY COMPANY
also known as Lumsden & McCormick, LLP,

Plaintiff,

v.

ORDER
05-CV-870A

JOSEPH DAVIS INC.,
BRISBANE REALTY ASSOCIATES, LLC,

Defendants.

This case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1). Defendant Brisbane Realty Associates ("Brisbane") filed a motion to dismiss the complaint. On November 14, 2006, Magistrate Judge Scott filed a Report and Recommendation, recommending that defendant's motion be converted to one for summary judgment and that the motion be briefed on that basis.

Brisbane filed objections to the Report and Recommendation on November 24, 2006.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which

objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendant's motion is converted to one for summary judgment and the motion shall be briefed on that basis. The case is referred back to Magistrate Judge Scott for further proceedings.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: December 28, 2006